

## **INDUSTRIAL RAIL SERVICE FUND PROCEDURE**

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# INDUSTRIAL RAIL SERVICE FUND PROCEDURE

## I. INTRODUCTION

This document presents the policy and procedure for selecting projects and distributing grant monies made available through the Industrial Rail Service Fund (IRSF). It includes a summary of goals of the IRSF program and the role of the program in supporting the Mission of the Indiana Department of Transportation. It also includes some brief background information about the program along with definitions of terms related to the IRSF program; an overview of the program's statutory authority; information about the format for the application process; the application scoring and selection process; the procedure for preparing agreements, project reimbursement and close out procedures.

## II. DEFINITIONS

Class I, Class II and Class III Railroads: These classifications differentiate various sizes of railroads based on the amount of annual revenue they generate. The Surface Transportation Board (STB) sets the dollar delineations and annually adjusts the amount to account for inflation. Current revenue classifications (prior to the annual inflation increases) are as follows: Class I railroads – annual revenue exceeds \$289.4 million. Class II railroads – revenue ranging between \$40 million and \$289.4 million. Class III railroads – less than \$40 million.

Railroad Port Authority: A railroad port authority is a railroad that is owned by a local government entity that has an interest in preserving rail service for the local community. Further information about Port Authorities is contained in I.C. 8-10-5-8.1.

286,000 pound capable track: This refers to track that can handle 286,000 pound rail cars.

Excepted Track: The lowest level of track condition as determined by Federal Railroad Administration (FRA) inspectors. Speeds are limited to less than 10 mph on excepted track segments.

Class 1 track through Class 5 track: The FRA inspectors rate railroad track according to its physical characteristics. The lowest track condition is referred to as excepted track. Track condition for freight movement is considered improved as ratings increase from Class 1 through Class 5. Class 1 track is limited to 10 mph. Speeds are allowed to increase to as much as 80 mph on Class 5 track.

## III. THE IRSF STATUTE

In 1982 Indiana Legislature enacted House Enrolled Act No. 1302 establishing the legislation in IC 8-3-1.7 which created the Industrial Rail Service Fund (IRSF). The program originally was set up to provide low interest loans to Class II and III railroads to purchase or rehabilitate real or

personal property that will be used by the railroad in providing transportation services. The Indiana Department of Transportation administers the fund.

In 1995, the legislature modified the IRSF language to allow grants to be provided to Port Authorities for the rehabilitation of railroad infrastructure. In 1997, this authority was extended to Class II and Class III railroads as well. Class I railroads are not eligible for loans or grants from the IRSF. Port authorities are limited to a grant award not to exceed 20% of the gross sales and use tax receipts deposited in the fiscal year preceding the fiscal year the grant is made. Railroads are limited to a grant award equal to not more than 75% of the total cost of the project.

Revenue deposited to the fund is mandated by IC 6-2.5-10-1(4). The fund receives 0.033% of the state sales tax which is deposited into the IRSF account on a quarterly basis. Revenue also comes through repayment of IRSF loans as directed by IC 8-3-1.7-6. Any unused balance at the end of the fiscal year does not revert to the General Fund, but stays in the IRSF account. During fiscal year 2006, grants totaling approximately \$1,800,000.00 were awarded.

#### **IV. IRSF PROGRAM GENERAL INFORMATION**

Funding has generally focused on specific rehabilitation projects that would result in upgrading the overall condition of Indiana's Class III railroads. Earlier funding focused on upgrading excepted track and repairing bridges. Selecting projects to attract new businesses with significant employment and assisting railroads to upgrade track to enable them to carry rail cars weighing up to 286,000 pounds are this year's program goals. Each fiscal year, the application, score sheet, and grant agreement will be updated.

To support economic growth initiatives, beginning with fiscal year 2007, \$200,000 per year will be made available to the Indiana Economic Development Corporation to use for rail infrastructure projects that will help attract job-creating business development. The IEDC will recommend projects, subject to INDOT approval. The Rail Office will administer such grants.

Not every railroad that applies for a grant will receive an award. The IRSF can be used as local match for federal funds.

#### **V. GOALS OF THE IRSF PROGRAM**

The IRSF role in advancing the INDOT Mission is listed below.

INDOT Mission: INDOT will plan, build, operate and maintain a superior transportation system enhancing safety, mobility and economic growth.

The Organizational Performance Index (OPI) for the Rail Office is the change in the annual number of railcars moved per mile of railroad track owned by Class III railroads in Indiana.

The IRSF program will be used to assist in the upgrading of Class II & III railroad track conditions to help maintain and increase existing business shipping levels on the rail lines and

also to assist with the funding of needed track infrastructure improvements related to specific, significant new business development on the line.

## **VI. Application Procedures and Funding Process**

### Overview

The IRSF grant application will be sent out and also be available on the INDOT website. INDOT will establish a due date at least 6 weeks after the distribution. The review and scoring process occurs between October and mid November. Applications will be reviewed and the highest scoring projects will be funded until approximately 70% of the amount available for IRSF grants (excluding the amount for INDOT administration fees, High Speed Rail and \$200,000.00 to the IEDC) is allocated.

The remaining funds will be awarded during late winter. The primary purpose of the second award period is to be able to respond to major job creation opportunities on Class II or Class III railroads that may arise between October and January. Applications for projects are due January 31, 2007. The additional applications will be reviewed and scored using the same criteria from the fall review. The highest scoring projects from the second review and those remaining from the fall will be funded until the available money is exhausted. The review team will announce grant awards after each selection process.

A railroad may submit a maximum of one application in the fall and one in the winter. A railroad is limited to one award each fiscal year. INDOT expects applicants to submit a complete application. If a railroad fails to submit any requested item, the score for that associated section will be zero.

### Application

The application has five sections: Project Outline, Project Description, Financial Data, Management Information and Economic Development. Following is a list of items requested in each section.

#### **1. Project Outline**

- Applicant name and mailing address
- Contact person, address, phone number, fax number, and e-mail address
- Project location – milepost to milepost and length of segment to be improved
- Project Type [tie and/or ballast replacement; rail replacement; bridge deck repair; rail spur or siding; combination project; other rehabilitation project]
- Current 286,000 pound capacity of project rail segment [railroad is at 286,000 pound capacity; proposed project doesn't impact 286,000 pound capacity; project takes line segment to 286,000 pound capacity]
- Number of shippers on the line in Indiana and commodities shipped
- Total number of employees of businesses served in Indiana by the shortline
- Total track miles in Indiana
- Proximity to an intermodal facility

2. Project description - A description of the proposed project by milepost including a detailed budget that includes each proposed item for purchase and its cost; total project cost; railroad contribution, requested INDOT contribution and contractor price quote.

3. Financial Data

Pursuant to I.C. 5-14-3-4(a)(5), INDOT will keep this information confidential

- A description of current outstanding loans, including original loan amount, lender, debt period, and remaining principal balance
- An audited financial statement, including balance sheet and income statement for the past three (3) years
- A list of the railroad's four largest stockholders and their percentage owned
- A summary of railroad expenditures during the previous fiscal year indicating dollar amounts spent on routine (do not include capital maintenance costs) track maintenance
- Total officer and employee salaries

4. Management information

- An organizational chart

5. Economic Development

An application receives points based on the number of new jobs brought to the community. INDOT will contact IEDC to obtain verification of the new business. The maximum grant amount for Class II and III railroads is determined by the number of jobs created. From zero to 200 jobs the maximum grant amount is \$200,000.00; from 201-400 jobs, \$300,000.00; from 401-700 jobs, \$400,000.00; from 701-1,000 jobs, \$500,000.00; from 1,001-1,500 jobs, \$750,000.00 and for more than 1,500 jobs the maximum grant award amount is \$1 million dollars.

Port authorities are limited to an award of \$200,000.00 for a project that includes the creation of less than 200 new jobs, and up to \$350,000 for the more than new 200 jobs.

The amounts listed above are maximums and are not guaranteed award amounts. It is possible the application with highest score will not receive the largest grant award. This might be due to the railroad not requesting the maximum amount that it is eligible to receive. However, the highest ranked application will receive the highest percentage of the amount requested.

Each scope of work will be reviewed to ensure project funding amounts are appropriate and necessary. The Rail Office reserves the right to reduce the project scope and dollar amount.

Scoring

The score sheet is completed with information provided from the application, current railroad annual report, agricultural census, rail system map, FRA inspection reports, Indiana Business Research Center, INDOT Loan Status Report, FRA Accident Reports, Tracking Drawdown Report and the Indiana Economic Development Corporation. The score sheet categories and their total point values are listed below.

New Economic Development	60 points
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Project Description And Rail Infrastructure	43 points
Existing Economic Indicators	26 points
INDOT's Long Term Transportation Policy	14 points
Other Considerations	11points

The categories within each section and their measurement tool are listed in the following table:

Item	Measurement Tool	Score sheet category
Jobs Generated from New Businesses That Will Use Rail	IEDC Verification Letter	New Economic Development
Project Description and Rail Infrastructure	Project Outline	Project Description and Rail Infrastructure
Rail Weight	Annual Report	Project Description and Rail Infrastructure
Total # of Employees of Businesses Located on the Line in Indiana	Project Outline	Existing Economic Indicators
Annual # of Railcars Moved per Indiana Track Mile	Annual Report	Existing Economic Indicators
County Unemployment Rate	Indiana Business Research Center	Existing Economic Indicators
Traffic Trend	Annual Report	Existing Economic Indicators
Financial Data	Financial Management Group	Existing Economic Indicator
Grain Crop County	Agriculture Census	Long-Term Transportation Policy
Connects With Intermodal Facility	Project Outline	Long-Term Transportation Policy
HSR Corridor	Rail Map ( HSR edition )	Long-Term Transportation Policy
Compliant with Filing Requests	Loan Status Report; Code Enforcement	Other Considerations
Railroad Contribution	Project Outline	Other Considerations
Prior IRSF Grant Recipient	Tracking Drawdown Report	Other Considerations
Amount Spent on Routine Track Maintenance	Financial Data	Other Considerations

### Project Selection

The review team includes three core members: the Freight Rail Planner, the Manager of the Rail Office, the Passenger Rail Planner, and an auxiliary member from the Financial Management Group. If one or more positions on the core review team is vacant, that spot will be filled by a Code Enforcement Officer. The auxiliary member reviews the financial data provided by the railroad to determine current coverage ratio, operating expense ratio and debt service ratio and based on that information will rate each railroad's financial health as marginal, mediocre, or strong. This information is provided to the core team members to include in their overall score. Each application is reviewed and independently scored by each core member using the IRSF grant evaluation criteria. Applications are then ranked based on their cumulative score. Funds are then awarded to the top-ranked applications until available funding runs out. A report with the

list of the recipients, total score, award amount, and a synopsis of each project application is prepared and submitted to the Director of Local Programs.

The Rail Office will send award notifications and grant agreements to each railroad selected to receive a grant. The Rail Office will send notices to the other railroads clarifying their status as denied or eligible for winter funding. Grantees and award amounts will be posted to the INDOT website after each round (fall and winter).

#### Appeal

An applicant not receiving approval may appeal the selection decision to the Local Programs Director. The Local Programs Director will review all appeals. The process for filing an appeal is as follows:

1. The affected applicant must send, by certified mail, an appeal within 15 calendar days after receiving notification of INDOT's decision. The appeal should be mailed to:

Indiana Department of Transportation  
Local Programs Director, Room N955  
100 North Senate Avenue  
Indianapolis, IN 46204

2. INDOT will conduct a preliminary review within five working days, and if necessary, request by certified mail additional information from the applicant.
3. INDOT will allow five working days for receipt of additional materials.
4. The Local Programs Director will make a final decision within 15 working days from the receipt of the appeal request, or within 15 working days from the receipt of additional materials.
5. INDOT will notify the applicant in writing within five working days of its final decision.
6. The applicant may appeal INDOT's final decision in accordance with Indiana Code 4-21.5-3-1 et seq.

#### **VII. Agreement**

The Freight Rail Planner works with the Contract Administration Division to prepare the current fiscal year grant agreement. When completed, the agreement is forwarded to the Office of the Attorney General for form contract approval. The Freight Rail Planner also prepares the grant agreement exhibit based upon the approved scope and the budget. The exhibit is incorporated into the grant agreement. Each railroad must sign and return the agreement. When received by INDOT it is routed through the state signatory process.

#### **VIII. Project Payment Process**

### Payment

Once the grant is fully executed, a request is sent through the Local Programs business manager to the Project Accounting and Procurement office to generate a purchase order. The applicant is then eligible to receive grant funds, and is sent a copy of the executed agreement, payment instructions and a contract invoice voucher with the applicant-specific sections completed.

Along with the completed contract invoice voucher, copies of vendor bills or invoices the payment request will include a project spending report. This is a statement on railroad letterhead that includes a written description of the work completed and the funding breakdown of the INDOT and railroad share of the total project cost, amount requested, amount spent to date and the amount remaining. Each request is paid in proportion to INDOT's approved share of the project, as indicated in the grant agreement exhibit.

No payments will be made without a vendor bill or invoice. Employee labor is eligible to be counted as part of the railroad match. The railroad has 18 months from the date of the purchase order to complete the project.

### Scope Change

In the course of completing the project, the railroad may determine changes or modifications to the scope of work are needed. These requests will not involve an increase in the amount of funding provided by INDOT.

This occurrence should not happen regularly. However, when needed, the railroad sends a letter to the Rail Office Manager justifying the reason for the change. Scope changes that result in a more efficient use of resources are generally viewed favorably. A significant change in material costs which allows the railroad to increase the amount of material purchased is an example of an acceptable change in scope. Requests to substantially change the scope of work are not allowed. The Rail Office Manager has the authority to approve changes. If approved, an "approval to the scope of work notice" is sent to the railroad and attached to the grant agreement.

If the total project cost exceeds the amount listed in the agreement; INDOT will not provide funding in excess of the grant award. Should the total project cost less than the amount listed in the agreement, INDOT will still pay its proportional share of the total project cost. Any balance remaining in the purchase order after the project is completed is returned to the IRSF account.

### Project Close-Out

After the project is complete, and the railroad sends the final payment request; a project inspection and report is made by a Rail Office employee prior to the final payment. If the inspection documents the project has been completed based on the agreement exhibit, the final payment is made, and the purchase order is closed.



## IX. Approximate Timeline

Develop Upcoming Fiscal Year Application, Score Sheet and Grant agreement	May – July
Indiana Economic Development grant requests Received	July– June
Solicit Fall Applications	September 1 – October 16
Review and Score Applications	October 17 – November 17
Recommendations Approved (Fall)	Mid December
Fall Grant Agreements Sent	December 31
Solicit Winter Applications	December 1 – January 31
Review and Score Winter Applications	February 1 – February 16
Recommendations Approved (Winter)	Late February
Spring Grant Agreements Sent	March 1
Denial Notices Sent	March 1
Grant Applications Returned and Routed Through Signatory Process	January – May
Purchase Orders Generated	March – June
Grant Reimbursement	March '07 - September '08